

JODY FORD MCCREARY, #1694118	§	
VS.	§	CIVIL ACTION NO. 6:16cv1275
ELDRICK BIRDOW	§	

malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). Mr. McCreary claims he was the victim of excessive use of force, but he has not shown that he was under imminent danger of serious physical injury at the time he filed the lawsuit in order to trigger the exception provided by § 1915(g).

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Mr. McCreary to the Report, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and Mr. McCreary’s objections are without merit. It is therefore

**ORDERED** that the complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

**ORDERED** that Mr. McCreary’s motion to proceed *in forma pauperis* (Dkt. #2) is **DENIED**. Mr. McCreary may resume the lawsuit if he pays the entire filing fee of \$400 within thirty days from the entry of the Final Judgment. It is finally

**ORDERED** that all motions not previously ruled on are **DENIED**.

So **ORDERED** and **SIGNED** this **14** day of **December, 2016**.



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Ron Clark, United States District Judge